

Message Text

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ACTION EUR-12

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TO AMEMBASSY THE HAGUE
INFO SECSTATE WASHDC 3355
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LIMITED OFFICIAL USE EC BRUSSELS 02894

E.O. 11652: N/A
TAGS: ETRD, EEC, NL
SUBJECT: CUSTOMS TARIFF PROBLEMS OF AMERICAN HOIST INTERNATIONAL
CORPORATION

REF: THE HAGUE 1089

1. MISSION OFFICER MET WITH DOORNBOS PRESIDENT AND LAWYERS
MARCH 23 TO DISCUSS CUSTOMS CLASSIFICATION PROBLEM OUTLINED
IN REFTEL. IN ADVANCE OF THIS MEETING, MISSION HAD DETERMINED
THAT THE CLASSIFICATION OF AMERICAN HOIST'S LIFTING CRANES
UNDER BTN 84.23, RATHER THAN 84.22, HAD BEEN CONFIRMED BY THE
EC NOMENCLATURE COMMITTEE ON OCTOBER 18, 1974. ACCORDING TO
COMMISSION OFFICIALS, ALTHOUGH A CLASSIFICATION PROBLEM CAN
BE RECONSIDERED BY THE NOMENCLATURE COMMITTEE SUCH A PROCEDURE IS
UNUSUAL. A MORE NORMAL COURSE OF ACTION FOR A FIRM DIS-
SATISFIED WITH SUCH A DECISION WOULD BE TO SEEK RECOURSE IN
ONE OF THE NATIONAL COURTS WITH A POSSIBILITY OF AN APPEAL
THROUGH THE EUROPEAN COURT OF JUSTICE.

2. DOORNBOS OFFICIALS INDICATED AWARENESS OF THE
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ABOVE PROCEDURE. THEY ALSO STATED THAT THEY ARE
RELUCTANT TO BEGIN THE COURT PROCEEDINGS UNTIL THEY
ARE ABSOLUTELY CERTAIN THAT ADMINISTRATIVE APPEALS AT
BOTH COMMUNITY AND NATIONAL LEVEL HAVE BEEN EXHAUSTED.
THE MAIN PURPOSE OF THEIR VISIT TO BRUSSELS HAD BEEN TO
DISCUSS WITH BELGIAN CUSTOMS AUTHORITIES A BELGIAN
CLASSIFICATION UNDER BTN 84.23 OF A NEWER MODEL CRANE

WHICH DOORNBOS SAYS CANNOT BE CONVERTED TO DO EXCAVATION WORK AND WHICH IS NOT SPECIFICALLY ENUMERATED IN THE NOMENCLATURE COMMITTEE DECISION. APPARENTLY THIS NEW MODEL CRANE, WITH A UNIT VALUE OF MORE THAN \$500,000, IS DOORNBOS'S MAJOR INTEREST AT THIS TIME.

3. MISSION OFFICER INDICATED WILLINGNESS TO APPROACH COMMISSION OFFICIALS IN SUPPORT OF DOORNBOS ARGUMENTS. HE ASKED TO BE PROVIDED WITH AS CLEAR A STATEMENT AS POSSIBLE OF THE UNFEASIBILITY OF CONVERTING THE NEW MODEL CRANE TO EXCAVATING PURPOSES. MISSION AND DOORNBOS AGREED THAT RAISING THE MATTER THIS WAY WOULD MORE THAN LIKELY CLOSE THE GAP LEFT IN THE COMMUNITY MARKET BY CONTINUED GERMAN CLASSIFICATION UNDER BTN 84.22 (REFTEL) DOORNBOS INDICATED THAT IT WILL CONTINUE TO SEEK REVERSAL OF BELGIAN DECISION WITH BELGIAN CUSTOMS OFFICIALS AND WILL WEIGH WHETHER AND WHEN TO GO DIRECTLY TO EC COMMISSION. MISSION AND DOORNBOS AGREED TO RESUME CONTACT IN A FEW WEEKS.

4. COMMENT: MISSION IS READY TO ASSIST DOORNBOS AND AMERICAN HOIST IN DIRECT APPEAL AT THE COMMISSION LEVEL. WE TOLD THEM, HOWEVER, THAT COMMISSION HAS USUALLY BEEN RELUCTANT TO INITIATE ACTION IN TARIFF RECLASSIFICATION AREA, PREFERRING TO ACT ON REQUESTS BROUGHT BY ONE OR MORE MEMBER STATES. DOORNBOS INDICATED PERFECT AWARENESS OF THIS FACT, STATING THIS IS WHY THEY CONTINUE TO SEEK SATISFACTION FROM BELGIAN CUSTOMS. HINTON

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Sent Date: 24-Mar-1977 12:00:00 am
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